

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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GUY CARPENTER & COMPANY, LLC and )  
MARSH & McLENNAN COMPANIES, INC., )  
Plaintiffs, )  
v. )  
JULIAN SAMENGO-TURNER, RON )  
WHYTE, and MARCUS HOPKINS, )  
Defendants. )

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Case No. 07 - CV- 3580 (DC)

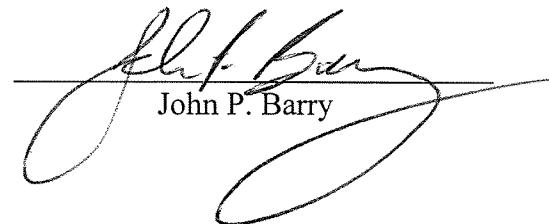
**DECLARATION**

I, John P. Barry, hereby declare:

1. I am a member of Proskauer Rose LLP, attorneys for defendant Ron Whyte ("Defendant") in the above-captioned matter. I submit this declaration in opposition to plaintiffs' motion for expedited discovery pursuant to Federal Rules of Civil Procedure 26, 30, 33, and 34.
2. Attached hereto as Exhibit 1 is a true and correct copy of a letter dated May 1, 2007 from Elborne Mitchell, counsel for Defendant, to Herbert Smith LLP, counsel for plaintiffs.
3. Attached hereto as Exhibit 2 is a true and correct copy of a facsimile transmission dated May 3, 2007 from Herbert Smith LLP, counsel for plaintiffs, to Elborne Mitchell, counsel for Defendant.
4. Attached hereto as Exhibit 3 is a true and correct copy of a letter dated May 17, 2007 from Elborne Mitchell, counsel for Defendant, to Herbert Smith LLP, counsel for plaintiffs.
5. Attached hereto as Exhibit 4 is a true and correct copy of the transcript of Marsh & McLennan Companies, Inc.'s first quarter 2007 Earnings Conference Call, which took place on May 8, 2007.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: Newark, New Jersey  
May 17, 2007



A handwritten signature in black ink, appearing to read "John P. Barry". The signature is fluid and cursive, with a horizontal line above it and a large, sweeping loop below it.

# **EXHIBIT 1**

To	Herbert Smith LLP	Address	One America Square Crosswall London EC3N 2PR
Fax No	0207 098 5417	Telephone	020 7320 9000
From	Elborne Mitchell	Fax	020 7320 9111
Our Ref	KCP/RHJ/30947	E-mail	lawyers@elbornes.com
Your Ref	2090/3159/30875525	Website	www.elbornes.com
Date	01/05/2007	DX	1063 London-City
No of Pages	2	Lloyd's Line	7819-0

**Elborne Mitchell**  

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SOLICITORS

**Our Clients:** Ron Whyte, Julian Samengo-Turner, Marcus Hopkins  
**Re:** Guy Carpenter

Please see attached letter.

1 May 2007

Our Ref KCP/RHJ/30.947  
Your Ref 2090/3159/30875525

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## By Fax

Herbert Smith LLP  
Exchange House  
Primrose Street  
London  
EC2A 2HS

**Elborne Mitchell**

SOLICITORS

Dear Sirs

**Our Clients:** Ron Whyte, Julian Samengo-Turner, Marcus Hopkins  
**Re:** Guy Carpenter

We note that we have heard nothing from you in response to our letter of 19 April 2007, sent some ten days ago, nor even the courtesy of an acknowledgement. We find this remarkable given that your original correspondence to our clients requested their urgent responses on a number of detailed matters and written undertakings within a timeframe of two working days, coupled with notification of your client's rights to damages and/or injunctive relief against our clients. We assume from your silence that the various allegations raised against our clients are not now being pursued however please confirm this to us.

Yours faithfully

**Elborne Mitchell**

# **EXHIBIT 2**

# Herbert Smith

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## Fax

Pages (incl)	1	Date	3 May 2007
To	Elborne Mitchell Solicitors	F	020 7320 9111
Company			
Your Ref	ES/KCP	Our Ref	2090/3159/30875525
From	Herbert Smith	D	+44 (0)20 7466 2017
		F	+44 (0)20 7098 5417
Subject	<b>Ron Whyte, Julian Samengo-Turner, Marcus Hopkins</b>		

This fax is confidential and may be covered by legal professional privilege. If you are not an addressee and have received this fax in error, please contact us immediately; you should not use the fax or copy its contents to any other person. Thank you. If you do not receive all pages clearly, please contact the sender of this facsimile message directly.

Dear Sirs

Thank you for your letter dated 1 May 2007.

Our client's position remains as stated in previous correspondence. In particular, in our letters to your clients dated 5 April 2007, we made clear that we required responses from your clients to the questions asked in that letter, in accordance with their obligations under the Plan and their general obligations as employees of our client. Your clients remain obliged to answer these questions regardless of whether or not our client provides any further background information to you. Accordingly, we await responses from your clients to these questions as soon as possible.

We note the confirmation regarding documents and other property belonging to GC or its clients and request that the mobile phone handsets are returned to Joanne Thomas as soon as possible. We look forward to receiving, by return, your clients' written undertakings that they will strictly comply with their obligations as GC employees and, in particular, with the obligations referred to in the letters to them dated 3 April 2007 and the obligations set out in the Plan.

Yours faithfully

# **EXHIBIT 3**

17 May 2007

Our Ref KCP/RHJ/30.947  
Your Ref 2090/3159/30875525

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**Elborne Mitchell**  
SOLICITORS

Dear Sirs

**Our Clients: Ron Whyte, Julian Samengo-Turner, Marcus Hopkins**  
**Re: Guy Carpenter**

We refer to the previous correspondence between us resting with your letter of 3 May 2007.

Since that letter your clients have of course issued against our clients in the US Federal Court District of New York seeking a mandatory injunction that our clients comply with clause IIE of the Plan and seeking repayment of sums said to be due under the Plan. We should place on record that we do not accept that New York is an appropriate forum for the claims your clients have chosen to bring or that your clients are entitled to the relief sought. Our clients' position is reserved generally in relation to those proceedings and as you are no doubt aware, we have appointed New York attorneys Proskauer Rose to deal with this matter further in New York.

We would comment, however, that we find it remarkable that your clients consider it appropriate to seek relief on an expedited basis in the New York courts, on the basis of alleged breaches by our clients of their contractual obligations, while making no mention of the fact that our clients have offered to provide written undertakings to comply with their garden leave obligations. Indeed, that this offer has been sitting on the table since 19 April 2007 but was not responded to, nor was our letter even acknowledged in any way, until 3 May 2007 (the day before the issue of the New York proceedings) and even then in response to our chasing letter to you.

As the offer has been made and remains open and as you have not put forward the terms of undertakings sought by your client, we set out below the terms of undertakings which we would be prepared to recommend to our clients: -

"I confirm my agreement to remain an employee of Marsh Services Limited ("the Company") until 2 October 2007 and to serve out my notice period on garden leave as requested by the Company. I undertake that while I remain an employee of the Company I will abide by my contractual duty of good faith and fidelity to the Company. I further undertake that during this period of garden leave I will not:

- (A) Save for the purpose of obtaining legal advice, or save as required or permitted by law, or save with the express permission of the Company:
  - (1) disclose or permit to be disclosed to any person, firm or company any confidential information of the Company or of any other member of the Group,
  - (2) disclose in any way, or use for my own or another's advantage, any of the data, programmes or manuals, or any of the business methods or information of a confidential nature relating to the affairs of any group Company.
- (B) be employed or engaged or otherwise provide services directly or indirectly, except as an employee of the Company, in the business of underwriting or as an insurance, reinsurance, or mortgage broker or agent without having first gained the written consent of the Company.

This undertaking is conditional upon the Company undertaking:

- (A) to continue to pay the full remuneration and benefits to which I am entitled under my contract of employment during the remainder of my notice period
- (B) not to claim damages from me arising out of any failure on my part to undertake work pursuant to my contract of employment during the remainder of my notice period."

We should be grateful for your confirmation by return that these terms are acceptable to you, whereupon we will try to contact our clients to obtain their instructions although you will appreciate that this may be difficult given that two of our clients are on holiday.

Yours faithfully

fm

**Elborne Mitchell**

# **EXHIBIT 4**

**Q1 2007 Marsh & McLennan Companies, Inc. Earnings Conference Call - Final**

8 May 2007

Voxant FD (FAIR DISCLOSURE) WIRE

OPERATOR: Welcome to MMC's conference call. First-quarter 2007 financial results and supplemental information were issued earlier this morning. They are available at MMC's Web site at [www.mmc.com](http://www.mmc.com).

Before we begin, I would like to remind you that remarks made today may include statements relating to future events or results which are forward looking statements as that term is defined in the Private Securities Litigation Reform Act of 1995. Forward-looking statements are subject to inherent risks and uncertainties. In particular, references during this conference call to anticipated or expected results of operations for 2007 are forward-looking statements and MMC's actual results may be affected by a variety of factors. Please refer to MMC's most recent SEC filings, as well as the Company's earnings release, which are available on the MMC Web site, for additional information on factors that could cause actual results to differ materially from those expressed or implied in any forward-looking statements made today.

I will now turn the conference over to Mr. Michael Cherkasky, President and CEO of MMC. Please go ahead, sir.

**MICHAEL CHERKASKY, PRESIDENT, CEO, MARSH & MCLENNAN COMPANIES, INC.:** Thank you and good morning, everyone. Thanks for joining us for MMC's first-quarter 2007 conference call. I'm Michael Cherkasky. Joining us today are Matt Bartley, our CFO, and Brian Storms, COO of Marsh. Also with us is Mike Bischoff, head of Investor Relations.

I'm going to talk about key elements of the quarter. Brian will then update you on Marsh. Matt will then follow. Then we will take some questions.

Let me first start by saying that I like where MMC is today and I like our quarter. MMC is doing what we said we would do at our Investor Day in December. Our margin is up, our operating income is up, our revenues are up, our financial flexibility is increasing, and our expenses are under control. At the same time, our transformation of this company is on track and is and will continue to make us a more profitable, a more reliable company. In the areas where we had some revenue shortfalls, they are limited, and we believe temporary.

MMC's first-quarter performance illustrates the diversification, strength and potential of MMC. This is a theme we've talked about in the past and will come back to later this morning.

MMC's revenues were \$2.8 billion in this year's first quarter, an increase of 5% compared with last year, 1% on an underlying basis. Excellent expense control allowed us to leverage our revenue growth into a 15% increase in operating income to \$387 million; 22% growth in pretax income to \$335 million; and a 10% increase in margin to 13.8%. This is MMC's highest level of profitability in all three categories since the second quarter of 2004.

Our Consulting segment, made up of Mercer HR and Mercer Specialty, continued to show very strong growth in both revenue and profitability. This segment grew revenues 13% and is on track to do more than \$4.5 billion in annual revenues this year. At the same time, we boosted our operating profits 22% year-over-year and our margin grew to 12.2%, over a 100 basis points improvement from last year's full-year margin. The MMC Consulting segment is a big business, with good growth and solid margin improvement that has a terrific future in large, addressable markets.

courses for our top 300 global leaders and our top 1,000 client-facing colleagues designed to align them with our strategy and enhance their consultative sales and client relationship-management skills.

On the IT side briefly, we also continue to re-architect and integrate our global data and application infrastructure with a regular stream of new tools and applications coming online in the first quarter. We are rapidly deploying a series of these tools that will enable us to drive straight through processing from opportunity management and inception of a client service agreement to risk and data capture, electric placement, and policy data management, and finally to billing. One set of data, one unified view of the client, one process flow. The implications for productivity, cycle times and accuracy are dramatic, and it will be the first time in Marsh's history that we've had a unified view of the client and one set of data on an integrated database. All in all, we are making tremendous progress on the IT front, upgrading systems and enhancing our ability to monitor and manage the business.

As I hope you can see, we asked a lot from our colleagues, and we are extremely proud of how they met the challenge and shouldered the load. The aggressive pace we chose over this past quarter put us dramatically closer to our strategic and operational goals. We have more to do, but we strongly believe that the first quarter of 2007 was the high-water mark in terms of sheer volume of concurrent change. With the large-scale transformation initiatives mostly behind us -- segmentation, geographic restructuring, wholesale leadership upgrades, new compensation plans -- we don't foresee anything of similar magnitude on the horizon.

More importantly, with our foundation strong and secure, Marsh is now aggressively on the offensive, focusing a disproportionate amount of our effort, energy and resources on accelerating growth. We are actively recruiting industry-leading talent. We are bringing innovative new-risk solutions to the market. We are investing in high-growth sectors. We are reasserting our scale and reach for the benefit of our clients, and we are meeting our clients' highest expectations with a differentiated approach to risk management. The bottom line is that we've never been more committed to our strategy, more clear in our direction, or confident in our ability to execute. Our clients, colleagues and markets continue to validate this approach.

Ultimately, we remain confident and wholly committed to the goals we laid out last December. As you will recall, we are targeting 3% to 5% organic compound growth in revenue over the next three years, and I said, with lower growth in 2007, accelerating in successive years as our growth priorities begin to take hold.

Thanks for listening. Now back over to you, Mike.

MICHAEL CHERKASKY: Thank you, Brian. Matt?

MATTHEW BARTLEY, CFO, MARSH & MCLENNAN COMPANIES, INC.: Thank you, Mike.

Let me begin by highlighting the expanded new information disclosed in the supplemental schedule in this morning's press release. On the bottom half of Page 8, you will see a significant amount of information that we are reporting for the first time, consistent with the commitment we made at Investor Day last December to enhance the disclosure of our financial and operating performance metrics. You can see that we are providing information, quarterly information, beginning with the first quarter of last year and through Q1 of this year on the geographic composition of Marsh's revenues, as well as line-of-business analysis, again by quarter, for each of Kroll and Mercer Human Resource Consulting.

MEYER SHIELDS: Okay, thanks. As a follow-up, there has been a few significant headlines of I guess employee defections, whether it's Integro facultative re or Beecher Carlson in Atlanta. Can you give us an update in terms of the turnover you're seeing from client-facing folks and how that compares to previous years and quarters?

MICHAEL CHERKASKY: Yes. First, I'm going to handle the reinsurance. Obviously, we did have a defection to Integro in the reinsurance. By the way, it's so fascinating is we are not having defections in the brokerage business to Integro. In fact, they are coming the other way. I think this is a temporary blip. What is very rewarding is that we are attracting people in the reinsurance business. So it really isn't -- there is a war for talent but it's going both ways and I think, because of Integro's position, they make more of a headline about it than maybe others.

Brian, on the brokerage business?

BRIAN STORMS: Yes, a very positive story to tell there as well. I mean, obviously, we measure very carefully our voluntary turnover rates. Our voluntary turnover rates I'm happy to report in the first quarter were down at historically low levels.

We are, for the first time in a long time, as we get more and more proactive, aggressively recruiting. I say with great confidence we are winning the war for talent in the brokers business right now. Our business model, the success that we're beginning to see -- we are winning the war for talent. It's still a pretty irrational market out there; we are seeing competitors offering multi-year deals with lots of guarantees, things that any rational -- we're not going to do. But in terms of our ability to win the war for talent, it's really going in our favor and as the year progresses, you will see the impact of that.

MEYER SHIELDS: Okay, thank you very much.

OPERATOR: Terry Shu, JPMorgan.

TERRY SHU, ANALYST, JPMORGAN: I don't know whether you touched on it. In the quarter, I'm guessing that you did not benefit from higher commission rates? It was a question about contingents but actually the underlying rates. Were you able to get higher commission rates to offset the lost contingents? Was there a trend towards that or is it still out there?

BRIAN STORMS: This is Brian. If you look at our rates, which is not just commissions, it's fees, a large percentage of our big client book is a fee business, those have been pretty consistent throughout the quarter. We are not seeing any change in the overall level that we charge clients. What we are seeing is expansion of services, which unrelates to brokerage commissions, but as it relates to that issue, no, there has been no change.

TERRY SHU: The other point is the headwinds from the declining property/casualty premium rates. I think, because the industry is at record profitability, we're probably looking at a soft rate environment for the foreseeable future. All of the big brokers are talking about improving margins. Is it not a very difficult challenge, as we look ahead, to be able to do that when you're going to continue to see headwinds from declining rates?

MICHAEL CHERKASKY: Well, first thing before I turn it over to Brian, you know, we at MMC don't think that market conditions like that are an excuse for not performing the way we said we will perform. It's not an excuse. There are a lot of different ways to win. We in fact positioned ourselves -- which we